

CHAPTER 2. PORT PHYSICAL SECURITY

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CHAPTER 2. PORT PHYSICAL SECURITY

- A. Introduction. The objective of the Coast Guard port security program is to safeguard the nation's ports, waterways, facilities, vessels, persons, and property in the vicinity of the port from accidental or intentional damage, destruction, loss, or injury. To be effective, the program must receive command attention and direction from all echelons within the port community and must be carried out by properly trained and equipped personnel. The Captain of the Port (COTP) must ensure that the total port security posture is accurately assessed, and that security resources are appropriate to meet these programs. To meet this objective, the COTP must identify critical assets within a port, develop a prioritized list of those most susceptible to acts of sabotage, and plan for adequate security measures to meet specific needs. Critical assets include: Priority One and Priority Two facilities identified in the CCGF/MDZ OPLAN's facilities subject to the International Maritime Organization (IMO), "Measures to Prevent Unlawful Acts Against Passengers and Crews Aboard Ships," and other facilities deemed appropriate by the COTP.
1. Responsibilities. Port security is the responsibility of several parties within the port community. The extent of security measures provided by a vessel or facility may be influenced by many factors including: mission of the activity; type of business; jurisdiction within which it lies; size and geographical location; economic and political atmosphere; potential and existing threats; and operational support provided by all security interests within the port.
- a. Owner/Operator. The primary responsibility for vessel or facility security rests with the master of the vessel or owner/operator of the facility (33 CFR 6.19-1).
- b. Captain Of The Port (COTP). The COTP has the overall responsibility for ensuring that adequate security is maintained for vessels and facilities within his/her jurisdiction. In addition, the COTP, under most circumstances, will be responsible for providing adequate waterside security for essential port facilities and maritime assets. Landside security, particularly as it pertains to landward approaches to facility property, falls primarily to the owner/operator of the vessel or facility and state and municipal law enforcement agencies. However, to

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augment the efforts of owner/operators and state and local law enforcement officials the Coast Guard will:

- (1) Aid in ensuring that no unauthorized persons gain access, and that no improper activities occur in the vicinity of waterfront property;
- (2) Detect and prevent any surreptitious landing of persons from boats;
- (3) Identify and recommend additional practical measures to safeguard property against sabotage or other dangers from the waterside and aid in the implementation of these measures; and
- (4) Make every effort to cooperate with vessel and facility owners and operators and other government agencies in pursuit of their primary responsibility to protect waterfront facilities against landside damage.

c. Port Security Officer. The COTP shall designate an officer who will be responsible for assisting the COTP in determining the adequacy of the port security program by identifying those port facilities or maritime assets requiring improved security measures and by implementing the provisions of this instruction. The Port Security Officer should have adequate experience and training in the areas of physical security and loss prevention, law enforcement, and maritime terrorism to manage an effective port security program. Duties that fall to the Port Security Officer may include:

- (1) Conducting port vulnerability and threat assessments.
- (2) Identifying by location and priority, those facilities and maritime assets to be protected.
- (3) Conducting port facility security surveys and inspections.
- (4) Determining the adequacy of vessel and port facility security measures provided by the owner/operator and identifying those areas needing improvement.

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- (5) Determining and identifying the necessary resources (personnel, equipment, etc.) to implement effective port security measures.
 - (6) Identifying physical security equipment and ~~procedures that will detect, deter, and/or prevent removal, damage, or destruction of protected property.~~
 - (7) Identifying and establishing appropriate limited access areas and ensuring that the areas are properly designated by the COTP.
 - (8) Determining and recommending establishment of boundaries, barriers, and access control points for protected areas.
 - (9) Establishing and maintaining a port access control system through implementation of the Port Security Card Program.
 - (10) Developing and maintaining a current Maritime Counterterrorism (MCT) Contingency Plan.
 - (11) Providing technical assistance on all port security matters.
 - (12) Maintaining effective liaison with appropriate Federal, state, and local agencies.
 - (13) Providing real world port security related input to exercise planners to ensure port security issues and/or concepts are adequately addressed and tested.
- d. Port Physical Security Specialist. A limited number of port physical security specialist billets have been created to provide field units with additional resources and expertise to be used in implementing port security programs. These individuals should become skilled in physical security principles including the conduct of facility surveys and inspections to evaluate owner/operator capabilities; vehicle and personnel access control; passenger vessel security; cargo security principles; command, control, communications, and patrol techniques; principles of communications security (COMSEC), operational security (OPSEC) and intelligence; threat, vulnerability, and risk assessments; and combatting maritime terrorism.

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- B. Port Security Planning. Planning is a continuous process, carried out in advance of security operations and concurrently with them. Plan development and implementation will normally follow an in-depth security analysis. The first step in determining where to focus limited port security resources is to identify which assets are at greatest overall risk. Conceptually, the notion of risk and its component parts can be summarized using the following formula:

$$\text{Risk} = \text{Threat} \times \text{Vulnerability} \times \text{Consequence}$$

1. Threat. Threat is the intent to inflict injury or damage. It is an important concept because; whether dealing with a wartime scenario, a civil disturbance, terrorism or other intentional acts, threat assessments can indicate how likely it is that an act will be carried out against a vessel or port facility. Security planning and resource management must consider potential threats to assets in ports and how their destruction or damage might have military, economic, political, or publicity value to an attacker. While the number of domestic maritime terrorist or subversive acts have been few, the vulnerability of many U.S. port facilities is quite high.
2. Vulnerability. Vulnerability is defined as the susceptibility of an asset or group of assets to an adverse action or potential action through which the effectiveness of the asset is reduced or eliminated. While no measure exists that can determine absolute vulnerability, the Passenger Terminal Vulnerability Assessment Form (Enclosure 2-2) provides a method for determining the relative vulnerability of various port facilities, and can aid in prioritizing employment of limited security resources. Factors to be considered in determining vulnerability include but are not limited to:
 - a. Geographical location and avenues of ingress and egress.
 - b. Accessibility of the vessel or facility to disruptive, criminal, subversive, or terrorist elements.
 - c. Adequacy of storage facilities and ease of access to valuable or sensitive items such as hazardous materials, arms, ammunition, and explosives.

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- d. Availability and adequacy of security forces and adequacy of physical security measures.
3. Consequence. The adverse effect from the loss of an asset is an important consideration in security planning. ~~An asset with low threat and vulnerability but whose loss would result in extremely serious consequences may deserve more attention than another where the threat and vulnerability may be high, but the negative impact of its loss or damage would be low.~~ In evaluating the risk to an asset, consideration must be given to the mission sensitivity of the vessel or facility, its importance to the continuity of essential port operations, and the military or economic impact of its loss or damage. While there has been no attempt to develop a relative scale of "consequence," high value assets may include:
 - a. Production, supply, and repair facilities such as power generating stations, oil and chemical storage facilities, and shipyards.
 - b. Transfer, loading, or storage facilities such as rail and truck terminals, cargo container yards, airports, vessel docking, and loading facilities.
 - c. Transportation modes, such as trains, trucks, aircraft, vessels, conveyors, pipelines, and their consolidation (choke) points.
 - d. Transportation support systems such as bridges, tunnels, runways, roads, locks, piers, channels, anchorages, and aids to navigation.
- C. Physical Security Assessments. Effective response to port emergencies, particularly subversive or terrorist acts, is greatly aided by an in-depth understanding of the vessels or facilities affected and their attendant security systems. The COTP must determine if vessel or facility security is adequate to counter the current threat. The availability of current security profiles is essential for emergency response to be timely and effective.
1. Facility Security Surveys. The primary purpose for conducting security surveys of waterfront facilities is to have information readily available to assist in contingency and operational planning and in making a proper and well-informed response to an emergency. At a minimum, security surveys should be completed every two years, in conjunction with the facility safety surveys

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required by Marine Safety Manual volume VI (COMDTINST M16000.11 (series)), for all facilities in the COTP zone that are:

- a. Designated waterfront facilities;
 - b. Passenger ship terminals;
 - c. ~~Category I and II facilities in the Key Asset Protection Program (KAPP); and~~
 - d. Other critical facilities identified by the COTP as being important during a military mobilization and/or deployment.
2. Port Physical Security Checklist. The Port Security Checklist (Enclosure 2-3) should be used as a guide, but is not meant to be all inclusive. These surveys are designed to provide the COTP with information on existing security measures and to aid in identifying vulnerabilities and areas needing improvement. Feedback should be provided to the facility operator so that necessary steps can be taken to improve weaknesses in the facility security program. Disclosure of this information by facility operators is voluntary and subject in part to the Privacy Act of 1974 (5 U.S.C. 552a).
- a. Collecting Information. Details of facility security and related systems (such as firefighting plans) can be obtained from facility operators. Similar information may also be maintained by local authorities. When such information is not provided by owners, operators, or local authorities, COTP's may develop appropriate security profiles independently. Security surveys, should be conducted in cooperation with facility owners/operators or their designated representatives.
 - b. Safeguarding Information. In obtaining facility security information, Coast Guard personnel should maintain a low profile to preclude unnecessary alarm and to avoid suggestions that particular port facilities are ripe for exploitation by subversives or terrorists. All such security information must be safeguarded to avoid compromising the integrity of facility security systems and procedures. At the minimum, such information shall be considered "For Official Use Only" with access on a "need to know"

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basis, not generally subject to release under the Freedom of Information Act.

- c. Forms And Reports. The Port Physical Security Checklist should be used to record survey information. Upon completion of the form a copy should be provided to the facility so that they are well informed of Coast Guard efforts and findings. The completed forms should be filed in a facility file at the COTP. Existing safety inspection files or separate security files may be used. Completed surveys are reported as an element of the Port Safety & Security/Marine Environmental Response Quarterly Activities Report, Form CG-4957.
- D. Physical Security Standards. At the time of publication of volume VII, a project was ongoing to develop U.S. physical security standards using the International Maritime Organization, "Measures to Prevent Unlawful Acts Against Passengers and Crews on Board Ships" as their basis. This section will be promulgated after the standards development project is completed.
- E. The Coast Guard Role. Although the primary responsibility for vessel or facility security rests with the master of the vessel or owner/operator of the facility, each COTP has the overall responsibility for ensuring that adequate security is maintained for vessels and facilities within his/her jurisdiction.
 1. Extent Of Coast Guard Involvement. Generally speaking, the greater the risk, the more need for extensive Coast Guard involvement. With lesser risk, there is less concern about relying solely on the security systems of the owner/operator or local authorities. In a situation where the risk is unacceptable, and other security forces (e.g., facility personnel, DOD security forces, state and local police) have been exhausted, the Coast Guard must deploy its resources to most effectively safeguard the national interests. If necessary, this will include armed waterside and landside patrols to ensure the security of critical waterside facilities and essential waterways. The COTP must determine the degree of effort necessary to ensure the security of essential port facilities based on several criteria:
 - a. The severity of the threat;

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- b. The degree of vulnerability (including the authority, capability, and willingness of the owner/operator, state and local law enforcement agencies, or other armed services to provide for adequate security); and
- c. The value or importance of the asset.

2. Limited Access Areas. The Coast Guard may, upon occasions when safety, security, or other national interests dictate, control access to and movement within certain areas under its jurisdiction. The primary tool available to the Coast Guard to supplement existing physical security measures is the establishment of limited access areas. These areas define the port, facility, terminal area, or activity boundaries and are used to restrict or control movement of vessels, vehicles, persons, or objects within these areas. The establishment of any limited access area requires public rulemaking and publication in the Federal Register. Procedures for preparing regulations for limited access areas are found in COMDTINST M16704.2 (series), Preparation and Publication of Field Regulations. Several control mechanisms are available under the Magnuson Act (50 U.S.C. 191), the Ports and Waterways Safety Act (33 U.S.C. 1221 et seq.), the Outer Continental Shelf Lands Act (43 U.S.C. 1333), and the Deepwater Ports Act (33 U.S.C. 1409). In some situations, an entire port area or facility may require only one level of restriction and control. In others, differences in security interests will require varying degrees of control. In order to facilitate port operations while addressing valid safety and security concerns, careful application of restrictions, controls, and protective measures is essential. Figure (2-1) is a comparative synopsis of information on limited access areas. Limited access areas include the following:

- a. Restricted Waterfront Areas. Restricted waterfront areas are established under the authority of the Magnuson Act (50 U.S.C. 191), 33 CFR 6.10-5 and 33 CFR 125.15. Although the term "restricted area" is not mentioned in the Code of Federal Regulations, what is intended by this term is described in 33 CFR 125.15. The description provides that the Commandant may establish a "limited access area" which has been termed a "restricted area" by the Coast Guard. Restricted areas are areas where access is limited to persons possessing identification credentials suitable to the Commandant. Credentials

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that are recognized and would permit the holder access to a restricted waterfront area are identified in 33 CFR 6.10 and 33 CFR 125.09. For an area to be designated as restricted, it must fall under one of the following categories:

- (1) It is vital to the Military Defense Assistance Program;
- (2) It pertains to the support of U.S. military operations;
- (3) It pertains to the loading and unloading of explosives and other dangerous cargo; or
- (4) It is essential to the interest of national security and defense.

In accordance with the regulations in 33 CFR 6.10-5 and 33 CFR 125.15, the Commandant initiates the action to establish a restricted area. In addition to establishing restricted areas on a case by case basis, the Commandant may establish restricted areas for one of the four categories listed above by issuing a general directive. A general directive is hereby issued by the Commandant for anchorages, vessels and commercial waterfront facilities, including the surrounding area, where activities pertaining to the handling, loading, or discharging of commercial or military Class A explosives are being conducted. Thus, a restricted area for the protection of a Class A explosive loading operation may be established by the Captain of the Port without prior approval or action by the Commandant. No general directive has been issued regarding any of the other categories listed above. Accordingly, when the need arises, authorization must be received from the Commandant.

- b. Security Zones. Security zones are designated areas of land, water, or land and water established for such time as is necessary to prevent damage or injury to any vessel or waterfront facility; to safeguard ports, harbors, territories, or waters of the United States, or to secure the observance of the rights and obligations of the United States. The purpose of a security zone is to safeguard vessels, harbors, and ports and waterfront facilities from destruction, loss, or injury from sabotage or other subversive acts, accidents, or other causes of a similar nature.

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Security zones are established by the Captain of the Port or District Commander under the authority of 50 U.S.C. 191 and 33 CFR 6.04-6. The designation of a security zone may only be made for areas within the territorial limits of the United States (including the territorial waters) as prescribed in the Magnuson Act. In a decision rendered by the United States Court of Appeals, Second Circuit (Connecticut) on 17 Jan 1991, the Court held that water surrounding a dry-land naval installation constitutes "naval reservation" within the meaning of 18 U.S.C. 1382. 18 U.S.C. 1382 states that "Whoever, within the jurisdiction of the United States, goes upon any military, naval, or Coast Guard reservation, etc. for any purpose prohibited by law or lawful regulation; or whoever reenters or is found within any such reservation, after having been removed therefrom or ordered not to reenter by any officer or person in command or charge thereof - shall be fined not more than \$500 or imprisoned not more than six months, or both." This decision on appeal was made on a case involving Jacqueline Allen and three other individuals who were protesting against nuclear arms. Ignoring the warnings of posted guards, the group converged on the U.S.S. Pennsylvania, a Trident nuclear submarine moored at pier no. 7 at the Naval Underwater Systems Center (NUSC), New London, Connecticut. Allen swam to the side of the Pennsylvania and struck its hull with a hammer. The other three individuals paddled in a canoe to the stern of the submarine, climbed onto the vessel and also hammered its hull. The Court of Appeals, Second Circuit agreed with the district court that entering the security zone is entering the naval reservation and is a violation of 18 U.S.C. 1382. Consequently, entry is prohibited for unlawful purposes where navigable waters are designated a "security zone" by federal regulation (U.S. v. Allen 924 F.2d 29). In another decision involving security zones, the United States Court of Appeals, Ninth Circuit (California) upheld, in part, a decision of the United States District Court for the Northern District of California. In the absence of circumstances demonstrating a tangible threat to national security, the district court decided in May of 1988, to impose a permanent injunction prohibiting the Coast Guard "from imposing a security zone in excess of 25 yards away from the reviewing stand on the pier or on the shoreline of San Francisco Bay during the opening

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ceremonies for any future Fleet Week." The district court held that the 75-yard security zone imposed by the Coast Guard during Fleet Week in 1986 was a violation of the First Amendment rights of the Bay Area Peace Navy. The district court also awarded \$24,157.50 in attorneys' fees. The government appealed the ruling on both the security zone decision and the attorneys' fees issue. The Ninth Circuit ordered the appeals consolidated and, on 14 September 1990, rendered a decision upholding the district court decision on the security zone, but reversing on the attorneys' fees issue [Bay Area Peace Navy. et al. v. United States. et al., No. 88-958/88-15286 (9th Cir., Sept. 14, 1990)]. In view of these court decisions, the legal aspects of establishing a security zone shall be duly considered in consultation with the district legal staff before a security zone is established. The establishment of a security zone does not include the airspace above the designated zone. If it is deemed necessary to secure airspace above a designated security zone, this must be accomplished through the authority of the Federal Aviation Administration (FAA). Once a security zone is designated, all persons and vessels within the zone are required to obey any directive or order issued by the COTP. Within this zone, the COTP may control the access and movement of all vessels, persons and vehicles (including their removal) and may take control and possession of any vessel.

- c. Safety Zones. A safety zone is a water area, shore area, or water and shore area to which, for safety or environmental protection purposes, access is limited to authorized persons, vehicles, or vessels. Safety zones are established by the Captain of the Port or district commander under the authority of 33 U.S.C. 1221 et seq. and 33 CFR 165.20 to protect vessels, structures, and shore areas. They may be stationary and described by fixed limits or may be described as a zone around a vessel in motion. When a safety zone is established, the Captain of the Port may direct who and what may operate within the zone and may direct the manner in which operations will be conducted within the zone. Whoever is within a safety zone, whether authorized by the COTP or not, is required to obey any lawful order issued by the COTP, district commander or their authorized representative. Failure to comply may result in civil or criminal penalties. To promote safety and

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protect the environment, the Coast Guard is able to not only limit access to the zone, but also to control activities within the zone.

- d. Safety Zones On The Outer Continental Shelf. Safety zones on the Outer Continental Shelf (OCS) are established by district commanders under the authority of 43 U.S.C. 1333 and 33 CFR 147.10. These zones are limited to an area within 500 meters of artificial islands and fixed structures on the OCS used for the purpose of removing minerals from the ocean bottom. Zones are established to promote the safety of life, property, and the environment. The Coast Guard may control access to and actions within the zone.
- e. Safety Zones For Deepwater Ports. Deepwater Port (DWP) safety zones are established by the Commandant under the authority of 33 U.S.C. 1409 and 33 CFR 150, Subpart C. Deepwater Port safety zones are established to promote safety of life and property, marine environmental protection, and navigation safety at any deepwater port and adjacent waters. In a DWP safety zone, no installations, structures, or uses that are incompatible with port operations are permitted.
- f. Regulated Navigation Areas. Regulated navigation areas are water areas within which navigation requirements or restrictions for vessels have been established by district commanders under the authority of 33 U.S.C. 1221 et seq. and 33 CFR 165.11. They provide for the safety of navigation when the condition of a port or waterway warrants a higher standard than provided by the rules of the road. They are designed to permit permanent passive vessel traffic management. Vessels may be required to comply with specific operating criteria to gain access into or transit through the regulated area.